



UNHCR
United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

UNHCR Regional Representative
Regional Office for Australia, New Zealand,
Papua New Guinea and the Pacific
3 Lyons Place, Lyons, ACT 2606, Australia
Tel: +61.2.6260 3411
Fax: +61.2.6260 3477
Email: aulca@unhcr.org

Date: 18 December 2012

Notre/Our code: 12/MISC/752

Re: **Inquiry into the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012**

Dear Committee Secretary,

UNHCR is pleased to provide, by way of submission to the inquiry, a copy of its Statement on the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 issued at the time of tabling of the Bill, on 31 October 2012.

In view of the Bill's close relationship with the Migration Legislation Amendment (Regional Processing and Other Measures) Act 2012, I also wish to provide copies of letters from the United Nations High Commissioner for Refugees to the Minister for Immigration and Citizenship of Australia in relation to the possible designation of Nauru and Papua New Guinea as 'regional processing countries' dated 5 September and 9 October 2012 respectively. These letters were tabled in the Australian Parliament as part of the designation process.

I trust the information enclosed will assist the Committee's deliberations.

Please do not hesitate to contact me should you require any further information.

Yours sincerely,

Richard Towle
Regional Representative

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600



STATEMENT

UNHCR Statement

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

UNHCR's longstanding view is that under international law any excision of territory for a specific purpose has no bearing on the obligation of a country to abide by its international treaty obligations which apply to all of its territory. This includes the 1951 Refugee Convention, to which Australia is a party.

UNHCR's preferred position has always been for all asylum-seekers arriving into Australian territory, by whatever means, and wherever, to be given access to a full and efficient refugee status determination process in Australia. This would be consistent with general practice, and in line with the principle of non-discrimination.

If asylum-seekers are transferred to another country, the legal responsibility for those asylum-seekers may in some circumstances be shared with that other country, but such an arrangement would not relieve Australia of its own obligations under the Convention.

In this respect UNHCR considers it imperative that all asylum-seekers affected by the '13 August' arrangements be provided with a fair and effective asylum procedure, with due process, as soon as possible, and that any detention of asylum-seekers be strictly in accordance with Australia's refugee and human rights law obligations.

UNHCR is increasingly concerned about the unresolved status of the more than 5,700 people who have arrived in Australia since 13 August and who are being held in detention in Australia and Nauru. This effective suspension of processing raises serious legal issues, as well as concerns for the health and wellbeing of those affected.